



Public Agenda Item: **Yes**

Title: **Licensing Act 2003 – An application for a Review of a Premises Licence for Torbay Court Hotel, Steartfield Road, Paignton, TQ3 2BJ**

Wards Affected: **Roundham-with-Hyde**

To: **Licensing Sub Committee** **9<sup>th</sup> November 2017**

Contact Officer: **Gary O'Shea**  
Telephone: **01803 207631**  
E.mail: **Licensing@torbay.gov.uk**

---

## 1. Key points and Summary

- 1.1 To consider and determine an application, in respect of the Premise detailed above, for a Review of a Premises Licence.
- 1.2 The application relates to all the Corporate Priorities within the Community Plan.
- 1.3 The matters raised relate to the Licensing Objectives "The Prevention of Public Nuisance" and "The Prevention of Crime and Disorder".
- 1.4 Under regulations to the Licensing Act 2003 (the Act) the Licensing Authority (the Authority) must hold a hearing to consider the application and any relevant Representations.

The Authority must, must have regard to the application and any relevant Representations and take one or more of the steps as detailed below as it considers necessary for the promotion of the Licensing Objectives.

The steps are –

- (a) to modify the conditions of the licence;
- (b) to exclude a licensable activity from the scope of the licence;
- (c) to remove the Designated Premises Supervisor;
- (d) to suspend the licence for a period not exceeding three months;
- (e) to revoke the licence;
- (f) to do nothing;

and for this purpose, the conditions of the licence are modified if any of them are altered or omitted or any new condition is added.

All annex one conditions such as conditions that the licence may be subject to under sections 19, 20 and 21 (requirement to include certain conditions in Premises Licences) and any of the mandatory conditions must remain.

Where the Authority takes a step to modify the conditions or exclude a licensable activity, it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify.

- 1.6 Reasons for the decision must be given for inclusion in the appropriate Notices required to be served on the Interested Parties and Responsible Authorities at the determination of the matter.

## **2. Introduction**

- 2.1 The application has been made under Section 51 of the Act for a Review of the Premises Licence, at the Premise detailed above. Details of the application are shown in **Appendix 1**.

A brief description of the Review is as follows:

The application concerns matters relating to the Licensing Objective “The Prevention of Public Nuisance” and has been submitted by a resident that lives in the vicinity of the Hotel.

A copy of the current licence, including the plan of the premises is attached as **Appendix 2**.

- 2.2 Torbay Council as the Licensing Authority, is satisfied that the Applicant is a person as defined under the Act as being entitled to make such application and that the application is not frivolous or vexatious. The Authority is also satisfied that the administrative requirements of Section 51(3) (a) and (b) have been met and that the application is therefore, properly made.

A Representation has been received from the Public Protection Officer for Torbay Council in relation to the Licensing Objective “The Prevention of Crime and Disorder”. This is shown as **Appendix 3**.

A further Representation has been received from another Interested Party, namely a resident that lives in the vicinity of the Hotel. This representation relates to the Licensing Objectives “The Prevention of Public Nuisance” and the “Prevention of Crime and Disorder”. With regard to the latter objective, there is no crime alleged rather than disorder caused by street drinking and foul language. This representation is shown as **Appendix 4**.

There have been no Representations from any other Responsible Authority or any other person or party.

- 2.3 The Authority is required to conduct a hearing under provision of Section 52(2) of the Act.
- 2.4 Appropriate Notices have been issued to all parties, as required by the Licensing Act 2003 (Hearing Regulations) 2005, including, where appropriate, details of the Representations and the procedure to be followed at the hearing.
- 2.5 Once the matter is determined, a Right of Appeal to the Magistrates’ Court is granted by Section 181 of the Act and, by Paragraph 8(2) of Schedule 5 to :-
  - (a) the Applicant for the Review,
  - (b) the holder of the Premises Licence, or
  - (c) any other person who made relevant Representations in relation to the

application.

In the event that an Appeal is entered, the determination will not have affect until the Appeal is either determined or withdrawn.

- 2.6 Following such Appeal, the Magistrates' court may:-
- (a) dismiss the Appeal,
  - (b) substitute for the decision appealed against any other decision which could have been made by the Licensing Authority, or
  - (c) remit the case to the Licensing Authority to dispose of it in accordance with the direction of the Court,
- and may make such an order as to costs as it thinks fit.

**Steve Cox**  
**Environmental Health Manager (Commercial)**

### **Appendices**

Appendix 1	Application for Review
Appendix 2	A copy of the Premise Licence
Appendix 3	Representation from Public Protection Officer
Appendix 4	Representation from an Interested Party

### **Documents available in members' rooms**

None

### **Background Papers:**

The following documents/files were used to compile this report:

Torbay Council Licensing Policy 2016.